

SUPPORTING STATEMENT
OMB No: 1610-0001

DHS Individual Complaint of Employment Discrimination, DHS Form 3090-1

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

It is the policy of the Government of the United States to provide equal opportunity in employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex, national origin, age or handicap and to promote the full realization of equal employment opportunity through a continuing affirmative program in each agency.

No person shall be subject to retaliation for opposing any practice made unlawful by title VII of the Civil Rights Act (title VII) (42 U.S.C. 2000e et seq.), the Age Discrimination in Employment Act (ADEA) (29 U.S.C. 621 et seq.), the Equal Pay Act (29 U.S.C. 206(d)) or the Rehabilitation Act (29 U.S.C. 791 et seq.) or for participating in any stage of administrative or judicial proceedings under those statutes.

The Department of Homeland Security (DHS), Office for Civil Rights and Liberties (CRCL) adjudicates discrimination complaints filed by DHS employees. The complaint adjudication process is outlined in the Equal Employment Opportunity Commission (EEOC) regulations found at Title 29 Code of Federal Regulations Part 1614 and EEO Management Directive 110.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The recordkeeping provisions are designed to ensure that an agency employee claiming to be aggrieved or that person's attorney provide a signed statement that is sufficiently precise to identify the aggrieved individual and the agency and to describe generally the action(s) or practice(s) that form the basis of the complaint. The complaint must also contain a telephone number and address where the complainant or the representative can be contacted. The complaint form is used for original allegations of discrimination but also for amendments to underlying complaints of discrimination. The form also determines whether the person is willing to participate in mediation or other available types of alternative dispute resolution (ADR) to resolve your complaint; Congress has enacted legislation to encourage the use of ADR in the federal sector and the form ensures that such an option is considered at this preliminary stage of the EEO complaint process.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

A complainant may access the complaint form on the agency web site and may submit a completed complaint form electronically to the respective component EEO Office. The complaint form can then be directly uploaded into the DHS EEO Enterprise Complaints Tracking System also known as "EEO Eagle."

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose(s) described in 2 above.

Complainant must file a complaint with the agency that allegedly discriminated against the complainant. DHS has sole jurisdiction over the adjudication of discrimination complaints filed by DHS employees.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-1), describe the methods used to reduce the burden.

The burden of compliance with the information collection requirement does not impact small businesses or other small entities.

6. Describe the consequence to Federal program or policy activities if the collection is or is not conducted less frequently, and any technical or legal obstacles to reducing the burden.

The information collection frequencies specified in DHS complaint form is the minimum amount necessary and appropriate for the agency to determine whether the allegations shall be accepted for investigation, dismissed due to procedural grounds, or partially accepted and partially dismissed.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- requiring respondents to report information to the agency more often than quarterly;
- requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- requiring respondents to submit more than an original and two copies of any document;
- requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
- in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- requiring the use of statistical data classification that has not been reviewed and approved by OMB;
- that includes a pledge of confidentiality that is not supported by authority established in statute or regulation that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can prove that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

The requirements are within the guidelines set forth in 29 CFR 1614.106.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection before submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to those comments specifically address comments received on cost and hour burdens.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded,

revealed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that mitigate against consultation in a specific situation. These circumstances should be explained.

As required by the Paperwork Reduction Act of 1995 (PRA-95), the Agency issued a *Federal Register* notice on January 22, 2008 at 73 FR 3738, soliciting comments from the public and other interested parties on the information collection requirements contained in the DHS complaint form. The Agency has not received any comments on this information collection.

9. Explain any decision to provide any payments or gift to respondents, other than reenumeration of contractors or grantees.

No payments or gifts are provided to respondents, other than reenumeration, for services rendered by contractors or grantees.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

No elements of confidentiality are involved.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

Such information is required to be reported as the complainant must provide allegations that are sufficiently precise to generally the action(s) or practice(s) that form the basis of the complaint. Such information collected is the minimum amount necessary and appropriate for the agency to determine whether the allegations shall be accepted for investigation, dismissed due to procedural grounds, or partially accepted and partially dismissed. The complainant is informed during the informal counseling phase that to pursue their EEO claim, he or she must fill out a formal written complaint of employment discrimination so that it can be determined whether the complaint was timely filed, whether the allegations are within the purview of the EEOC regulations, to provide a factual basis for the complaint, and to reach a decision on the complaint. Consent is obtained by providing an explanation of the EEO complaint process during the informal phase, having an "exit interview" with an EEO Counselor when possible, and by having the requirement that there be a formal, signed written complaint.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- Show the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burdens, and explain the reasons for the variance.

General estimates should not include burden hours for customary and usual business practices.

- If this request for approval covers more than one form, provide separate hour burdens estimates for each form and aggregate the hour burden in Item 13 of OMB Form 83-1.
- Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.
- **There are approximately 1,200 respondents.**

$$1,200 \times 1/2 \text{ hour} = 600 \text{ burden hours}$$

600 burden hours

13. Provide an estimate of the total annual cost burden to respondents or record-keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14.)

There are no capital, start-up or maintenance and record keeping costs associated with this information collection.

14. Provide estimates of the annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 into a single table.

The cost to the Federal Government would be the EEO Complaint Manager's hourly wage rate (\$46.91) multiplied by the time it takes to ask for a collection of information (30 minutes (0.50 hours)) or \$23.46 per response x 1200 respondents. Therefore the estimated annual cost to the Federal Government is \$28,146.

Other occupational expenses, such as equipment, overhead, and support staff expenses, would have occurred without this collection of information requirements and are considered normal operating expenses.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-1.

There is no change or adjustment associated with the collections of information associated with the DHS complaint form.

16. For collections of information whose results will be published, outline plans for tabulations, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

No information collected will be published.

17. If seeking approval to not display the expiration date for OMB approval of the

information collection, explain the reasons that display would be inappropriate.

DHS CRCL is not seeking such approval.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-1.

DHS CRCL is not seeking any exceptions.